



Cinergy Services, Inc.
139 East Fourth Street, Rm 25 AT 11
P.O. Box 960
Cincinnati, OH 45201-0960
tel 513.287.3842
fax 513.287.2996
aschafer@cinergy.com

VIA OVERNIGHT MAIL

August 18, 2004

Anita M. Schafer
Paralegal

Ms. Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602

RECEIVED

AUG 19 2004

PUBLIC SERVICE
COMMISSION

Re: Case No. 2004-00014

Dear Ms. O'Donnell:

Enclosed please find an original and seven (7) copies of The Union Light, Heat and Power Company's Responses to the Commission Staff's Second Set of Data Request; an original and ten (10) copies of a Petition for Confidential Treatment and the confidential information in a sealed envelope for filing with the Commission.

Should you have any further questions, please do not hesitate to call me.

Very truly yours,

Anita M. Schafer
Paralegal

AMS/mak

Enclosures

cc: Iris Skidmore, Esq.
Kentucky Public Service Commission
Environmental and Public Protection Cabinet

Elizabeth Blackford
Assistant Attorney General
Kentucky Attorney General's Office

COMMONWEALTH OF KENTUCKY

RECEIVED

BEFORE THE PUBLIC SERVICE COMMISSION

AUG 19 2004

In the Matter of The Union Light, Heat and Power) Case No. 2004-00014
Company's Integrated Resource Plan)

PUBLIC SERVICE
COMMISSION

**THE UNION LIGHT, HEAT AND POWER COMPANY'S
2003 INTEGRATED RESOURCE PLAN FILING**

AND

**THE UNION LIGHT, HEAT AND POWER COMPANY'S AND
THE CINCINNATI GAS & ELECTRIC COMPANY'S
JOINT PETITION FOR CONFIDENTIAL TREATMENT**

The Union Light, Heat and Power Company (ULH&P) respectfully filed with the Kentucky Public Service Commission (Commission) its 2003 Integrated Resource Plan (IRP) in accordance with 807 KAR 5:058 and the Commission's Order in Case No. 2001-00058¹ on April 2, 2004. Additionally, ULH&P, along with its parent company, The Cincinnati Gas & Electric Company (CG&E) (collectively, Petitioners) respectfully submit this Petition for Confidential Treatment in accordance with 807 KAR 5:001 Section 7, seeking the confidential treatment of certain information provided in response to certain discovery requests of the Attorney General's office, the KyPSC staff and/or the Ky. Division of Energy.

¹ See *In the Matter of The Application of The Union Light, Heat and Power Company for Certain Findings Under 15 U.S.C. §79Z*, Case No. 2001-00058 (May 11, 2001).

Petition for Confidential Treatment

In support of their Petition for Confidential Treatment, Petitioners respectfully state:

1. ULH&P's discovery responses contain certain information that Petitioners consider confidential (hereinafter, Confidential Information).
2. The Commission's regulations, in 807 KAR 5:001, provide that any person requesting confidential treatment of any material file a petition setting forth the grounds, pursuant to KRS 61.870 *et seq.*, upon which the Commission should classify that material as confidential.
3. Kentucky Revised Statute § 61.878(1)(c)(1) provides that records confidentially disclosed to an agency or required to be disclosed to the agency be exempt from Kentucky's open records statutes, KRS 61.870 *et seq.* where the records are generally recognized as confidential or proprietary, and which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.
4. ULH&P's affiliate, CG&E, has assisted ULH&P in preparing ULH&P's discovery responses. Because ULH&P does not presently own generation but anticipates acquiring generation facilities from CG&E, CG&E has assisted ULH&P in preparing ULH&P's IRP and certain discovery responses by providing CG&E-related generation information.
5. Petitioners submit that the following Confidential Information," if openly disclosed, would give Petitioners' competitors access to competitively

sensitive, confidential information, which in turn could allow the competitors to make offers to sell wholesale power at higher prices than the competitors might offer in the absence of such information. This could cause energy prices to ULH&P's customers to be above competitive rates, and would permit competitors of Petitioners to gain an unfair competitive advantage in the marketplace:

- a. Base case gas costs assumed, sensitivity case gas prices assumed and actual gas costs paid for the last twelve months (provided in response to KyAG-DR-01-002); and,
 - b. Projected SO₂ and NO_x allowance price forecasts and other generation cost assumptions (provided in response to KyAG-DR-01-002, 004, 007, 009; KDOE-DR-02-026a).
6. CG&E vigorously strives to maintain the confidentiality of all of the Confidential Information. Further, this information is held to be confidential and proprietary throughout the electric industry for the reasons discussed herein.
7. The Confidential Information delineated in Paragraph 5, items (a), and (b), above, if openly disclosed, would enable competitors in the wholesale power market to ascertain Petitioners' view of the competitive wholesale electric marketplace and the prices to be commanded for various types of generating facilities and associated fuel and emission allowance cost projections. Additionally, this information would enable competitors to

ascertain Petitioner's projection of energy prices in the wholesale marketplace.

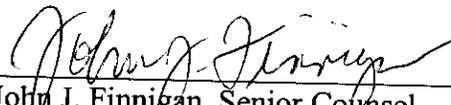
8. The Confidential Information will provide power marketing competitors with knowledge that will allow them to potentially manipulate the marketplace so as to unnecessarily cause consumers to pay more for electricity than they otherwise would. For example, the projected costs and operating assumptions for Petitioners' plants would grant competitors a distinct advantage in that they would be able to anticipate when Petitioners' plants would be non-competitive or otherwise constrained and where Petitioners may be long or short. With this information, a competitor could take actions that in the absence of this information it would not take. Such actions might include adjusting its prices, either to win contracts on which CG&E may also be bidding — business the competitors otherwise would not be in a position to win, or to set its prices artificially high to take advantage of an overall short market, the latter action obviously forcing consumers to pay higher prices for power.
9. Pursuant to 807 KAR 5:001 Section 7, Petitioners have attached to this Petition, under seal, one complete copy of the Confidential Information described herein, and ten copies of ULH&P's responses with the confidential material omitted or otherwise redacted.

WHEREFORE, for the reasons stated herein, ULH&P requests that the Commission:

Grant confidential treatment to the Confidential Information described herein and submitted herewith.

Dated at Cincinnati, Ohio, this 18th day of August, 2004.

THE UNION LIGHT, HEAT AND
POWER COMPANY



John J. Finnigan, Senior Counsel
Michael J. Pahutski
The Union Light, Heat and Power Company
139 East Fourth Street, 25 Atrium II
Cincinnati, Ohio 45202
(513) 287-3601
Fax: (513) 287-3810

CERTIFICATE OF SERVICE

I hereby give notice that on this 18th day of August, 2004, I have filed an original and 10 true copies, redacted, of ULH&P's responses to the data requests and the foregoing Joint Petition for Confidential Treatment with the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, 40601, and have served a copy of the foregoing Joint Petition for Confidential Treatment and responses to the data requests on the parties to ULH&P's IRP proceeding, appearing below.


Michael J. Pahutski

Hon. Elizabeth E. Blackford
Assistant Attorney General
Kentucky Office of the Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601-8204

Hon. Iris Skidmore
Kentucky Division of Energy
Office of Legal Services
Fifth Floor, Capital Plaza Tower
Frankfort, Kentucky 41011